

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**FILED**

**FEB 10 2006**

IN RE METOPROLOL SUCCINATE  
PATENT LITIGATION

MDL-1620-RWS  
ALL CASES

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

**FINAL JUDGMENT**

**A. Judgment**

For the reasons set forth in the Memorandum and Order dated January 17, 2006,

**IT IS HEREBY ORDERED that**

1. Judgment shall be and hereby is entered in favor of defendants KV Pharmaceutical Company, Andrx Pharmaceuticals, LLC, Andrx Corp., and Eon Labs, Inc. (collectively, "Defendants") and against plaintiffs AstraZeneca AB, Aktiebolaget Hässle, and AstraZeneca LP (collectively, "Plaintiffs") on Plaintiffs' claims of patent infringement against Defendants, and all such claims asserted by Plaintiffs against Defendants shall be and hereby are DISMISSED WITH PREJUDICE.

2. Judgment shall be and hereby is entered in favor of Defendants and against Plaintiffs on Defendants' counterclaims for declaratory judgment that claim 1 of U.S. Patent 5,001,161 is invalid, and such claim shall be and hereby is declared invalid.

3. Judgment shall be and hereby is entered in favor of Defendants and against Plaintiffs on Defendants' counterclaims for declaratory judgment that claim 1 of U.S. Patent 5,081,154 is invalid, and such claim shall be and hereby is declared invalid.

4. Judgment shall be and hereby is entered in favor of Defendants and against Plaintiffs on Defendants' counterclaims for declaratory judgment that U.S. Patent 5,001,161 is unenforceable for inequitable conduct, and U.S. Patent 5,001,161 shall be and hereby is declared unenforceable.

5. Judgment shall be and hereby is entered in favor of Defendants and against Plaintiffs on Defendants' counterclaims for declaratory judgment that U.S. Patent 5,081,154 is unenforceable for inequitable conduct, and U.S. Patent 5,081,154 shall be and hereby is declared unenforceable.

**B. Certification under Fed. R. Civ. P. 54(b)**

The Answer filed by defendant Eon Labs, Inc. ("Eon") in *AstraZeneca AB, et al., v. Eon Labs, Inc.*, Civil Action No. 1:04-205-SLR (D. Del.) prior to entry of the transfer order by the Judicial Panel on Multidistrict Litigation asserted various anti-competition counterclaims (counterclaims three through seven) against Plaintiffs. By Order of the U.S. District Court for

the District of Delaware dated June 3, 2004, such counterclaims were severed and stayed under Fed. R. Civ. P. 21 and 42. Accordingly, there have to date been no proceedings with respect to such counterclaims. Plaintiffs and defendant Eon are in agreement that this Court's judgment with respect to the patent issues, based on its Memorandum and Order dated January 17, 2006, should be certified under Fed. R. Civ. P. 54(b) for entry as a final judgment with respect to the patent issues so that an appeal may be taken by Plaintiffs on such patent issues. The Court agrees with Plaintiffs and Eon that such certification is appropriate. Accordingly,

**IT IS HEREBY ORDERED that**

6. The Court finds and determines in *AstraZeneca AB, et al., v. Eon Labs, Inc.*, Civil Action No. 1:04-205-SLR (D. Del.) that there is no just reason for delay in entry of final judgment on the matters adjudicated and resolved by the Memorandum and Order dated January 17, 2006 and the Judgment dated January 17, 2006, and expressly directs entry of judgment as reflected herein.

**C. Motions for Attorneys' Fees and Costs, and Submission of Bill of Costs**

On agreement of all parties,

**IT IS HEREBY ORDERED that**


7. Motions for attorneys fees and costs under Fed. R. Civ. P. 54(d) and Local Civil Rule 54-8.02, and submission of bills of costs under Fed. R. Civ. P. 54(d) and Local Civil Rule 54-8.03, shall be timely if filed and served within 20 days of entry of this Final Judgment.

**D. Dismissal of Plaintiffs' Claim of Infringement of U.S. Patent 4,957,745 against Defendant KV Pharmaceutical Company**

On agreement of Plaintiffs and defendant KV Pharmaceutical Company,

**IT IS HEREBY ORDERED that**

8. Plaintiffs' claims against defendant KV Pharmaceutical Company for infringement of Plaintiffs' U.S. Patent 4,957,745 shall be and hereby is DISMISSED WITH PREJUDICE, and defendant KV Pharmaceutical Company's counterclaims against Plaintiffs for declaratory judgment of noninfringement and invalidity of U.S. Patent 4,957,745 shall be and hereby are dismissed as moot.

  
RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this <sup>9<sup>th</sup></sup> 10<sup>th</sup> day of February, 2006